

Remarks

Corrected drawings are enclosed as required at item 3 in the Office Action.

Claims 8 and 17 have been amended to correct informalities as required at item 4 of the Office Action.

Claims 23, 24, 29, and 30 have been cancelled without prejudice to their inclusion in a possible divisional application.

Claims 10-14, 21, 27 and 28 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,462,770 (Cline et al) "Cline". Claim 10 describes optics for scanning the illumination to an object and receiving returned illumination representing at least one section of the object, means for detecting the returned illumination and forming a signal representative of an image of the section of the object, and means for displaying the image of the section of the object in accordance with the signal. It is the Examiner's position that FIG. 6, mirror 186, and various lenses of Cline, receive returned illumination representing at least one section of the object. It is respectfully submitted that the Examiner is incorrect. Cline describes a "combination camera head 42 ... [having] a mode switch mechanism 67 that directs the light received from the endoscope 40 to either the RGB video camera head 46 or the fluorescence camera head 44" (see column 5, lines 34-38, and FIG. 6). The images produced by Cline include surface features as well as the visible bulk properties of the underlying volume without any restriction to light from a section. Clearly, neither a RGB video camera head 46, a fluorescence camera head 44, nor any optics or mirrors for directing light thereto, are capable of restricting any light from the tissue to a section. In fact, a word search of the Cline patent does not find one instance of the word "section". As Cline therefore lacks each and every element of Claim 10, Cline cannot anticipate Claim 10. For similar reasons, Cline also does not anticipate method Claim 27. Withdrawal of the anticipation rejection of Claims 10 and 27 and of their respective dependent Claims 11-14, 21 and 28 is requested.

The rejection of Claims 12-13 as being directed to intended use is not well taken. In Claim 12, the word "confocal" further defines the optics and detection means used, and is a structural limitation as it describes a characteristic or feature of such elements. Claim 13 describes that the system of Claim 10 as being adapted for imaging by one of confocal microscopy, optical coherence tomography, and two-photon microscopy. These are different imaging modalities capable of providing the claimed image of a section of Claim 10, and are not directed to intended use but to how imaging of a section can be enabled. Cline does not describe,

or even suggest, the use of confocal optics, confocal detection, confocal microscopy, optical coherence tomography, or two-photon microscopy.

Claims 8, 9, 15-18 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cline in view of U.S. Patent No. 6,782,063 (Stevenson et al.) "Stevenson". Enclosed is a Declaration under 37 C.F.R. §1.131 signed by the inventor showing that the invention of the application was conceived in the U.S. before the September 12, 2000 effective date of the Stevenson patent. The evidence of conception and reduction to practice accompanying the Declaration is an invention disclosure, dated March 17, 2000, prepared by the inventor. The invention disclosure was communicated to the below signed attorney in preparing the Provisional Application to which the above-identified application claims priority. Thus, Applicant has provided evidence of the claimed invention prior to the September 12, 2000 effective date of the Stevenson relied upon by the Examiner. As Stevenson is no longer a proper prior art reference, Stevenson cannot be combined with Cline to reject Claims 8, 9, 15-18 and 22 under 35 U.S.C. §103(a). Accordingly, withdrawal of the rejection of these claims is requested.

Claims 1-7, 25 and 26 have been allowed.

New Claims 31-37 have been added to the application. Claim 31 depends on Claim 10, and has subject matter similar to allowed Claim 1. Claim 32 is similar to allowed Claim 1, but without "means for" language. Claims 33-35 depend on Claim 32. Claim 36 is a new independent claim submitted for consideration by the Examiner which is patentable over Cline. Claim 37 depends on Claim 36.

It is believed that the Application is in condition for allowance, and a notice of allowance is respectfully requested. A petition for a two-month extension of time is enclosed with a check for \$300.00 to cover the petition fee and additional claim fee.

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Respectfully submitted,



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Enclosures: Combined Amendment and Petition for Extension of Time Transmittal with Check  
Check for \$300.00, and Six Sheets of Drawings.